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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/787,266

02/26/2004

Guy Hubert Culeron

AA-615M2

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EXAMINER

DOUYON, LORNA M

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

12/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/787,266 | Applicant(s) CULERON ET AL. | |
| | Examiner Lorna M. Douyon | Art Unit 1796 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. This action is responsive to the amendment filed on August 28, 2009.
2. Claims 1-8, 11-15 are pending. Claims 9-10 are cancelled.
3. For the record, the terminal disclaimers filed on September 13, 2005, and March 30, 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of copending Application Nos. **10/787,343** and **10/787,342**, respectively, have been reviewed and is accepted. The terminal disclaimers have been recorded.
4. The terminal disclaimer filed on August 28, 2009 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. **7,402,554** has been reviewed and is accepted. The terminal disclaimer has been recorded.
5. Claims 1-4, 6-8, 11-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Loth et al. (US Patent No. 5,075,026), hereinafter "Loth" in view of Pritchett et al. (US Patent No. 6,612,468), hereinafter "Pritchett" for the reasons set forth in the previous office action.
6. Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Loth and Pritchett as applied to the above claims, and further in view of Baeck et al. (US

Patent No. 5,679,630), hereinafter "Baeck" for the reasons set forth in the previous office action.

7. Claims 1-8, 11, 13-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Petri et al. (US Patent No. 6,114,298), hereinafter "Petri" in view of Pritchett et al. (US Patent No. 6,612,468), hereinafter "Pritchett" for the reasons set forth in the previous office action.

8. Claims 1-8, 11, 13-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Petri et al. (US Patent No. 6,114,298), hereinafter "Petri" in view of Lund et al. (US Patent No. 5,431,345), hereinafter "Lund" for the reasons set forth in the previous office action.

9. Claim 12 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Petri in view of Pritchett, **or** Petri in view of Lund, as applied to the above claims, and further in view of Loth for the reasons set forth in the previous office action.

Response to Arguments

10. Applicants' arguments filed August 28, 2009 have been fully considered but they are not persuasive.

With respect to each of the rejections based upon Loth in view of Pritchett; Loth and Pritchett in view of Baeck; and Petri in view of Pritchett, Applicants argue that the

office action has failed to demonstrate that Pritchett teaches or suggests a mesh located “slightly within” the nozzle as asserted.

The Examiner respectfully disagrees with the above arguments because, as stated in the previous office action, the present claim 1 requires “a mesh and/or sponge located slightly within, and/or at the tip of the nozzle of said dispenser”, and the secondary reference to Pritchett teaches that the nozzle **12** communicates with an inner axial downwardly open tube **11** which forms a top foamer unit housing, and fitting closely in tube **11** is a cylindrical plastic tube **81** having ultrasonically welded across its open ends a disk of coarse nylon mesh **82** (bottom end) and fine nylon mesh **83** (top end), (see col. 7, lines 35-45 and Figure 1 in Pritchett). It is clear from this teaching and Figure 1 that mesh **83** and mesh **82** are located at the top foamer unit housing which contains the nozzle, and mesh **83**, as seen in Figure 1 is in the interior passage of the nozzle. Accordingly, the above rejections are maintained.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Lorna M Douyon/
Primary Examiner, Art Unit 1796

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